

**MINUTES
LAKE COUNTY PLANNING AND ZONING BOARD
FEBRUARY 4, 2015**

The Lake County Planning and Zoning Board met on Wednesday, February 4, 2015 in County Commission Chambers on the second floor of the Lake County Administration Building to consider petitions for rezoning requests.

The recommendations of the Lake County Planning and Zoning Board will be transmitted to the Board of County Commissioners (BCC) for their public hearing to be held on Tuesday, February 24, 2015 at 9:00 a.m. in the County Commission Chambers on the second floor of the County Administration Building, Tavares, Florida.

Members Present:

| | |
|-------------------------------|-----------------------------|
| Paul Bryan, Chairman | District 5 |
| Timothy Morris, Vice Chairman | District 3 |
| Rick Gonzalez | District 4 |
| Debbie Stivender | School Board Representative |
| Laura Jones Smith | District 2 |

Members Not Present:

| | |
|----------------------------|--------------------------------|
| Kathryn McKeeby, Secretary | District 1 |
| Michael Mazzeo | At-Large Representative |
| Donald Heaton | Ex-Officio Non-Voting Military |

Staff Present:

Chris Schmidt, Manager, Planning & Community Design Division
Steve Greene, AICP, Chief Planner, Planning & Community Design Division
Melving Isaac, Senior Planner, Planning & Community Design Division
Michele Janiszewski Planner, Planning & Community Design Division
Donna Bohrer, Office Associate, Planning & Community Design Division
Erin Hartigan, Assistant County Attorney
Susan Boyajan, Clerk, Board Support
Victoria Bartley, Clerk, Board Support
Ross Pluta, Engineer III, Public Works

Chairman Paul Bryan called the meeting to order at 9:00 a.m. and noted that a quorum was present and that the meeting had been duly advertised. He led the Pledge of Allegiance, and Ms. Debbie Stivender gave the invocation. Mr. Bryan introduced Laura Jones Smith, who was the new board member.

Mr. Bryan explained the procedures for the meeting, noting that the cases on the consent agenda had been placed there by staff who were recommending approval on those without further discussion or public comment and that they were considered noncontroversial. He added that those who wish to speak on any of the cases on the Consent Agenda would fill

out a card to do so and might result in that case being moved to the Regular Agenda, but he has not heard any concerns about those cases. He stated that they were a recommending body, and the Board of County Commissioners (BCC) would have final authority on those cases at their next meeting on February 24, 2015. He asked if anyone wanted to make a public comment on something that was not pertaining to any of the zoning cases on the agenda, but no one wished to speak at that time.

TABLE OF CONTENTS

Agenda Updates

Consideration of Minutes January 7, 2015

CONSENT AGENDA

| <u>TAB NO:</u> | <u>CASE NO:</u> | <u>OWNER/APPLICANT/AGENT/PROJECT</u> |
|-----------------------|------------------------|---|
| Tab 1 | PH#1-15-4 | BankFirst Realty-Roll Air Skating Rink CP |
| Tab 2 | CUP#14/6/1-3 | Novillo Lake Jem Equestrian Training & Event Center CUP |

REGULAR AGENDA

| | | |
|-------|---------------|-----------------------------------|
| Tab 3 | MCUP#15/1/1-2 | Cemex-Four Corners Sand Mine MCUP |
|-------|---------------|-----------------------------------|

Other Business

Adjournment

MINUTES

MOTION by Tim Morris, **SECONDED** by Debbie Stivender to **APPROVE** the Minutes of January 7, 2015 of the Lake County Planning and Zoning Board meeting, as submitted.

FOR: Morris, Gonzalez, Bryan, Stivender, Smith

AGAINST: None

MOTION CARRIED: 5-0

AGENDA UPDATES

Mr. Steve Greene, Chief Planner, Division of Planning & Community Design, stated that there were no changes to the Agenda and noted that the cases have been advertised in accordance with the law.

CONSENT AGENDA

| <u>TAB NO:</u> | <u>CASE NO:</u> | <u>OWNER/APPLICANT/AGENT/PROJECT</u> |
|-----------------------|------------------------|---|
| Tab 1 | PH#1-15-4 | BankFirst Realty-Roll Air Skating Rink CP |
| Tab 2 | CUP#14/6/1-3 | Novillo Lake Jem Equestrian Training & Event Center CUP |

MOTION by Debbie Stivender, seconded by Rick Gonzalez to APPROVE the Consent Agenda which includes Tabs 1 and 2.

FOR: Morris, Gonzalez, Bryan, Stivender, Smith

AGAINST: None

MOTION CARRIED: 5-0

PUBLIC COMMENT

There was no comment at this time.

Tab 3 – MCUP#15/1/1-2 – CEMEX-FOUR CORNERS SAND MINE MCUP

Mr. Melving Isaac, Senior Planner, Planning & Community Design Division, presented case MCUP#15/1/1-2, the Cemex-Four Corners Sand Mine, and specified that the owner is Lake Louisa LLC and the applicant is James Mott of Cemex Construction Material Florida LLC. He showed the property's location on an overhead map outlined in blue and related that the property is approximately 1,196 acres and located in the Clermont area, southeast of the intersection of US Hwy 27 and Schofield Road. He noted that the property is currently zoned Agriculture (A), with a Rural Future Land Use (FLU), and located within the proposed Wellness Way Sector Planning Area. He mentioned that mining activity is allowed in the Rural FLUC by the Comprehensive Plan and the Land Development Regulations with the issuance of a conditional use permit. He explained that the Applicant proposes to mine approximately 568 acres or 48 percent of the property in 28 phases over

approximately 30 years, depending on market conditions, and no wetlands are proposed to be mined or impacted. He related that the applicant is proposing mining operations 24 hours per day, seven days per week with proposed hours for sales from 5:00 a.m. to 4:00 p.m., seven days per week, and he specified that the development of the sand mine includes the construction of a processing plant, an office, truck scales, and a water storage pond, showing the locations of these facilities on the overhead map; also, he added that reclaimed water and a proposed well will be used in sand processing, and water from these sources will be stored in the water storage pond for reuse. He noted that the property is surrounded by large acreage and rural uses, with the closest residential subdivision about 1.5 miles away and showed the nearby developments on a map.

Mr. Isaac showed on a map that the proposed access to the site will be via the intersection of Hwy 27 and Schofield Road and related that conditions have been included in the proposed ordinance requiring Schofield Road to be paved prior to mining operations and that all right of ways to be paved be acquired by Cemex before approval of the operating plan. He specified that the existing right of way is approximately 66 feet wide, including a 20-foot wide dirt road, and he assured that the traffic for the mine will be limited to a paved portion of Schofield Road; also, truck traffic will be directed to the east section of Schofield Road toward CR 545 after the road is paved, and a condition has been included in the ordinance for upgrades and safety improvements at the intersection of Highway 27 and Schofield Road. He mentioned that the ordinance contains a condition requiring the submittal of an operating plan before starting operation of the mine, which is required to include a traffic study, management plan, noise study, and reclamation plan. He also noted that a community meeting was conducted by Cemex on January 29 in the Clermont area, and the applicant had indicated that they would construct a ten-foot high berm inside the 200-foot setback and plant trees along the east property line to address concerns related to dust from the mine. He reported that they have received a total of 17 letters of opposition, with the BCC receiving a total of 77 letters in opposition and five letters of concern. He concluded that staff was recommending approval of the mining conditional use permit request, with conditions as specified in the ordinance.

Mr. Bryan asked if Schofield Road is the only access point for the sand mine.

Mr. Isaac answered that if the applicant is able to obtain right of way to the east later on, then he would use that portion of the road.

Mr. Bryan asked if there was any limitation on how long buildout would take, since it is uncertain what the market would do for that period of time.

Mr. Isaac responded that they are estimating it to take 28 to 30 years, emphasizing that it depends on market conditions. However, he indicated that they could put limits on those conditions if the board requests to do so.

Ms. Smith asked whether this mine would be consistent with the Sector Plan that was transmitted to the Department of Economic Opportunity (DEO) in November after clarifying that it would be located within the Sector Plan area and that it is anticipated to

come back from the DEO on February 6.

Mr. Chris Schmidt, Planning & Community Design Division Manager, replied that they would have to evaluate it based on the Sector Plan policies, although he believes approval would be more inherently difficult with that plan. He pointed out, however, that they need to look at it with the policies and procedures in place today.

Mr. Gonzalez asked whether Southern Hill Farms, which is also known as the Long Family Farm, has come to some conceptual agreement with the applicant.

Mr. Isaac responded that they have come to an agreement in part, and the conditions that were proposed to address some of those concerns have been included in the ordinance, but there were more concerns that were not addressed in the ordinance.

Mr. Roger Sims from the Holland and Knight law firm, representing Cemex in these proceedings, recapped that this application has been in review for about three years, and they have offered conditions to their neighbors, some of which were acceptable; however, the neighbors still want more concessions. He assured the board that they have made a very vigorous effort to resolve what they can before this hearing and that this application addresses and meets or exceeds every single requirement and standard of the County's mining ordinance and the Land Development Regulations, including setbacks and buffers. He commented that they have relied on science rather than speculation, and noted that currently that land is rural and basically pasture and burned out groves. He added that there is no land use that would be inconsistent with the mining project, and the buffers and setbacks ensure that this would be an isolated activity. He emphasized that this is the only place that this specific and very important resource can be recovered, which is a particular type of sand required by the Florida Department of Transportation (DOT) for asphalt, concrete, and other construction, and he pointed out that they were asking to mine less than half of the property or 600 of the 1,200 acres. He commented that he agreed with the findings of the staff report and accepts the ordinance and the conditions proposed by staff. He asked the board to make their decision based on the facts and expert testimony.

Mr. Mark Stephens, a professional engineer and geologist with The Colinas Group with 40 years of experience, showed a conceptual mine plan for the Four Corners Sand Mine, noting that 420 acres of the site is set aside for open space area, and he pointed out three phases or zones, a water storage pond in the northern part above zone 3, and a processing plant in the center of the property. He mentioned that one of the concessions made by Cemex to address some concerns by neighbors was to lower the plant elevation by ten feet to make it less visible, and the excavation and phasing will be done using conventional methods and equipment, with the unmarketable sand being placed back into the excavation as part of the reclamation process. He then presented a diagram showing six phases of the mining operation, with each block consisting of about 100 acres, noting that reclamation would begin on the previous block when they move onto the next one, and he specified that they would move from the northern part to the southern part of the mine before moving to phase 6 last as a concession to postpone mining near the Long Family Farms as long as possible. He explained that the sand processing will be accomplished by running the sand through

screens using water, which would be obtained through Conserv II as the primary source, with the secondary source being a lower Florida aquifer well installed on the property, and he assured them that all of that water will be recycled to the best of their ability using a nine-acre lined process water pond. He mentioned that they have a Consumptive Use Permit which was issued by the St. Johns River Water Management District on September 3, 2013. He showed a picture of what a reclaimed mine looks like, and he noted that all of the reclaimed mine will be uplands with no water bodies created by the mining operation. He showed a video of an animation of what they anticipate the mine to look like, and he related that they have obtained all of the required environmental permits. He also assured everyone that there will be no reduction in recharge nor impacts to water levels, wetlands, or lakes, and he noted that reclamation will result in fully usable land which would be well-suited for all types of future residential and commercial development. He specified the ways that they have exceeded the LDR requirements for setbacks and berms at the property boundary with South Lake Crossings, Clonts Groves, Long Family Farms, and at the transportation corridor of Schofield Road. He showed a slide of how the eucalyptus trees would look that would be planted along the berm in the setback area on the east side of the property between the mine and the Hills' property, which would be planted at the beginning of the mining operation to give the trees 20 years to grow in order to supply substantial visual screening and wind protection, as well as slides of other types of berms. He related that trees would be planted around the entire perimeter of the property to provide some additional visual screening, and he noted that the mining plant will be located behind the ridgeline and will be visually screened by the ridgeline and the proposed berm.

Ms. Amber Gartner, a professional engineer with Kimley-Horn and Associates, Inc., related that she performed a traffic impact analysis for the site based on the Lake County requirements with the coordination of the DOT throughout that process, and she reported that based on current market demand, the site is anticipated to generate 160 truckloads per day based on one million gross tons of material mined in a year, although this analysis evaluated the maximum impact of the site would be up to two million gross tons of material, which would translate to 320 truckloads a day. She elaborated that the traffic impact analysis also included traffic from the employees that would be working on the site and specified that access to the site will be via US Hwy 27, with the trucks utilizing the major arterial roadways from the site. She added that approximately 50 percent of trucks would utilize the route of Schofield Road if it was paved to the east, and she pointed out that the traffic from the site would be less than one percent on Hwy 27 during the peak hour, which was considered an insignificant impact by DOT and Lake County standards. She noted that there would still be over 50 percent reserve capacity on Hwy 27 after the site is operational. She reported that Cemex would be constructing safety improvements on US 27 at the site access, including a southbound left-turn deceleration lane, southbound acceleration lane for trucks exiting the site, and paving of the access roadway from Hwy 27 to the site entrance.

Mr. Brian Martin from Fishkind & Associates stated that they were asked by Cemex to look at the fiscal and economic impacts to the county from the company as a whole, including its other operations throughout the county. He reported that they have found that Cemex would provide a \$4.2 million net fiscal benefit to Lake County over the next 20 years, including \$1 million in property taxes, \$3.4 million in sales taxes, and \$800,000 in school property taxes

paid to the County over that time. He added that the company would also provide over \$35 million per year in total economic output for the county in wages and jobs.

Mr. Bryan asked if the board was not allowed to take tax revenues into consideration while making a decision about a land use change.

Ms. Erin Hartigan, Assistant County Attorney, confirmed that was correct and added that they need to consider the criteria listed in the staff report.

Mr. Darren Stowe, a Certified Planner with Environmental Consulting & Technology, Inc., mentioned that he had 25 years of experience, including with local regulations specific to mining projects, and he explained that the Future Land Use (FLU) Element and the conservation element are the two elements that specifically address mining, noting that they were greatly exceeding the 35 percent requirement of open space in the FLU Element. He mentioned that buffering and separation are to be used to minimize conflicts between land uses. He related that the Conservation Element requires mining not to be done in environmentally sensitive areas and aquifer protection zones, and he assured the board that neither of those would occur and that there would be no mining in wetlands, surface waters, or in any designated sensitive areas. He opined that the proposed conditional use will not have an undue adverse effect upon nearby property, with the setbacks and berms previously discussed minimizing any conflicts through the separation of uses. He also opined that the development of the property at the density allowed would be far more of an impact to the county than the mine, since Cemex would be providing their own water and sewer, there would be no drainage offsite, all levels of services would be met, and there would be no impacts on public services or facilities. He pointed out that there was adequate fire protection, since there are two fire stations located within ten miles of the facility. He recommended that the board approve the project, since he believes that it meets all of the criteria.

Mr. Travis Wellman, Vice President of Operations for Cemex, who would be responsible for this site, noted that he also has a vested interest in these proceedings as a property owner in Lake County and related that the company has been operating in Lake County and the state for decades and has a strong reputation as a corporate steward for being a good neighbor and environmentally responsible. He recapped that they have been working with the neighbors and all the stakeholders involved for the past three and a half years to develop a plan that meets and exceeds all of the LDR requirements. He pointed out that they as well as staff feel that this project would be a good fit in the area, and he commented that they are looking forward to getting started on it and supplying much-needed jobs to Lake County as well as the needed resources that will help build and shape the county into the future. He thanked the board for their consideration.

Mr. Morris asked why they could not wait until after the Comprehensive Plan revision so that they could see what the state feels is best for their county.

Mr. Sims replied that they have been delayed many times and needed to move forward, adding that continuing to wait for the Sector Plan has already created some problems for

them. He also remarked that they do not know that the Sector Plan will be adopted as initially proposed and opined that they would still be an allowed use within that plan.

Mr. Morris asked Mr. Martin whether the economic impact of housing development in that area would exceed the economic impact of the mining operation.

Mr. Martin responded that although it was hard to determine that on a net basis, it probably would on a gross revenue basis from tax revenue, but unfortunately they had to look at all of the expenditures required of all of those additional houses, and it would be based on the price point and the level of service needed such as roads and public safety services. He concluded that it was hard to determine the net basis without doing the analysis.

Mr. Gonzalez asked Mr. Stevens about the agreement with Conserv II regarding water use.

Mr. Stevens elaborated that they had a meeting with Conserv II and have a letter indicating that they could supply the water, although they cannot guarantee the total quantities needed, since that was dependent on other uses, which was why they have the Floridan well as backup for that.

Mr. Gonzalez asked if they were planning to dig down to 70 feet elevation.

Mr. Stevens replied that assigning a depth of the elevation is not very practical, because the topography varies so much out there, but he noted that all those areas will be above the water table and backfilled half of whatever the excavation depth is depending on the topography. He clarified that 70 feet would be the maximum in the highest areas and further opined that there would be no impacts to recharge, wetlands, lakes, or the water table.

Ms. Smith expressed concern that the trees would take 20 years to grow to become a thick vegetative buffer and asked how large they will be when they initially put them in.

Mr. Stevens answered that the trees will be planted on the east side of the property, and the excavation will be starting almost a mile away on the west side of the property, which will give the trees time to grow.

Mr. Bryan asked how much water they would be drawing from the lower aquifer.

Mr. Stevens responded that their water use permit limits the water usage to less than 500,000 gallons.

Mr. Gonzalez asked Mr. Stowe how this would fit into the Sector Plan 30 years from now.

Mr. Stowe answered that they have been an active participant in the planning of the Wellness Way Sector Plan, and they believe it is an allowed temporary use in the plan. He added that they anticipate that the initial development in the Sector Plan will be along Hwy 27, but they are inside rather than along Hwy 27 and will be moving further away from 27. He elaborated that the timing will be very good as the Sector Plan does develop.

Mr. Morris mentioned that there was no formal traffic analysis included in their packet and asked Ms. Gartner if she has done a traffic analysis.

Ms. Gartner answered that they did a traffic impact analysis based on Lake County guidelines and discussions with the County and the Lake-Sumter MPO, which was included in the application.

The Chairman opened the public hearing.

Mr. Jim Karr, a resident of Windermere and managing partner of South Lake Crossing, which owns 740 acres contiguous north and 650 acres south to the mining operation, recapped that Lake County was invited to participate in the plan for Horizon West in 1992 but elected not to, and he pointed out that if the County participated in the planning in that area, that land would not be rural, and they would not be looking at a large sand mine in a rural area. He opined that the area is ready for immediate development and has the infrastructure and roads in place and that this is not the location for the mine, although he believed that Cemex was a good company which did a lot of good things. He added that this land is some of the last and best land in Central Florida that is undeveloped.

Mr. Wayne Rich, a resident of Orlando and representative of one of the landowners in the vicinity, asked to show a presentation by their planner, Jim Hall from VHB in Orlando.

Mr. Hall related that he has been a planner in Central Florida since 1988 and has worked in many municipalities, including in Lake County, as well as with County staff in the transmittal of the Sector Plan. He pointed out that the sand mine is right in the heart of the Sector Plan, and he showed on the map the abutting properties whose owners have indicated to him that they are opposing this mine, noting that this was currently in a rural designation which will soon not have that designation. He pointed out that since this was a conditional use rather than a permitted use, they would have to determine that the use is appropriate at this location. He opined that all five determining factors of location, design, intensity, configuration and public facility impact will determine the inappropriateness of the use and incompatibility with adjacent uses. He commented that the mine would cause a lot of impacts, and he noted that the Wellness Way Sector Plan will require that about 2,000 jobs be provided within the area of the sand mine versus the 20 jobs the sand mine will provide. He stated that at 1,200 acres the proposed mine should be considered a large scale development or a Development of Regional Impact and would not be consistent with the Comprehensive Plan, noting that staff recognized that consistency with this policy is a concern. He also pointed out that several of the major roadways go right through the mining operations, which may become a public facility impact. He related that many neighbors believe this to be an incompatible use in the Comprehensive Plan, and he expressed doubt that the buffers Cemex proposed would make it compatible. He pointed out that the Clonts property to the west is currently designated as urban with a four unit per acre designation and that the sand mine was in the prime groundwater recharge areas, noting that the Comprehensive Plan clearly states that mining in the prime recharge areas shall be prohibited. He stated that he did not think that all reasonable steps have been taken in the application by Cemex to minimize any adverse effects on the immediate vicinity. He added

that the proposed conditional use will interfere with the development of the surrounding property in violation of Section 14.05.03, Standards for Review. He concluded that there is insufficient right of way to provide an alignment from the sand mine to US 27 and recommended denial.

Mr. Jim Hitt, Economic Development Director for the City of Clermont, on behalf of the Clermont City Council, stated that the City Council reviewed the Four Corners Sand Mine and Cemex CUP application on January 13 and unanimously recommended denial of this application, and he added that this area is not only in the heart of the primary developable area within the interlocal service boundary agreement (ISBA) with Lake County, but it is also at the center of the Sector Plan that is currently being reviewed by the state DEO and coming back at the end of that week. He related that it is the City's position that the proposed CUP is inconsistent with the expressed intent of the ISBA and the Sector Plan and would significantly hinder the future provisions of the services and economic goals of the City of Clermont and South Lake County, noting that it would affect 1,200 out of 7,000 acres of developable and high recharge area.

Mr. Gonzalez asked if the City has specific plans that would be hindered by this project.

Mr. Hitt responded that a lot of potential development would not occur in the immediate area of the sand mine if it was approved, since people would avoid proximity to the mine; in addition, they have a roadway system that is part of the Sector Plan area, and Cemex would add 150 to 200 trucks a day on those proposed two-lane roads. He added that they do have water and sewer already planned for the area.

Mr. Rex Clonts, owner of Clonts Grove consisting of 711 acres along the east side of US 27 bordered on the south by Trout Lake and on the north and east by Schofield Road, noted that the proposed sand mine would lie along their eastern border for one mile, and he pointed out that all of the traffic from the mine was proposed to be routed along their borders using Schofield Road to US 27. He commented that Clonts Groves strongly opposes the mining operation, because it will adversely affect their ability to develop a mixed use development and the value of their property. He explained that citrus is currently facing a daunting and incurable disease known as greening which slowly renders the trees unproductive and eventually kills the trees, and faced with that reality, they are planning to sell their property for development in the next one to five years, since the updated Comprehensive Plan designates their future land use as Urban Low Density and Town Center which allows four dwelling units per acre plus commercial, retail office, and light industrial. He also mentioned that part of his property is designated as Wellness Way I, which allows 1.85 dwelling units per acre, and all of the land designations for his property require a jobs-to-housing ratio. He opined that a huge mine in the neighborhood is not compatible with Clonts Groves' land use, and the mine at this location would be a detriment to the area as conceived in the Sector Plan as well as to their existing uses. He concluded that his family wants to stay in the agricultural business, and it was imperative for them to be able to sell that property which is ready now for development in order for them to have the opportunity to fund future agriculture endeavors. He expressed concerns about traffic, the mine being an impediment to the Sector Plan concept, and reduction of property value.

Mr. Bryan asked about how much of his land is being used for citrus.

Mr. Clonts responded that 540 acres are in citrus, with only 490 acres currently in production, and they have lost about 70 percent of their historic production from just three years ago.

Mayor Tim Loucks from the City of Groveland and the Co-Chair for the South Lake Regional Water Initiative noted that he has not heard from a hydrologist from Cemex and emphasized that this particular area lies in one of the highest recharge areas in Central Florida which supplies water for approximately five counties and 8,800 square miles of the Floridian Aquifer. He pointed out that the District is insisting that the cities reduce irrigation and put them back into rapid infiltration basins to recharge the upper Floridian Aquifer, and he reported that South Lake County would be 60 million gallons a day short in water by the year 2035. He stated that mining this area would take out the recharge capabilities, and putting the overburden back in would reduce the recharge to about 1.2 inches per year as opposed to 20 inches per year currently. He concluded that the City of Groveland and the Regional Water Initiative adamantly oppose the Cemex mine and hope that the board recommends denial of this to the BCC, since to do otherwise would be an injustice to the citizens of Lake County, the Wellness Way Sector Plan, and the future water availability of South Lake County.

Mr. Matthew Modica, a lifelong resident of Clermont whose grandfather built the Citrus Tower, commented that there were 9,000 acres of green space in Lake Louisa State Park to the west and a plan in place, and he opined that a sand mine does not fit into the area. He also pointed out that there were currently 17 projects contiguous to 429 in Orange County being developed right now, which illustrates that the market is there, and he commented that as a landscaper, he does not think that the landscape buffers would take care of the noise, light, and air pollution from the mine. He concluded that he is opposed to the application, and he pointed out that it was the applicant who tabled their application one year ago.

Mayor Gail Ash from the City of Clermont stated that she objected to approval of this project and related that constant lights, beeping of trucks, horns, and sand underneath the roadway impacts the residents in her community who currently live near a sand mine. She opined that it would take five to ten years to have massive construction and building in that area, and this sand mine was in a terrible location for the development of an area that the County and her city has spent years trying to develop in the right way.

Mr. David Hill, whose farm is adjacent to the east side of the proposed mine, related that they have 88 acres of landscaped trees and 40 acres of blueberries that they started five years ago and clarified that his farm was known as the Long Family Farms. He noted that they have sent a letter to the County asking that the applicant abandon the use of 50 acres near their property line, since the strong west winds particularly in the spring would drive sand on their blueberry bushes which would blemish the berries and greatly impact their very sensitive crops, but the applicant would not agree to that because of economic reasons. He stated, however, that he believes the applicant seems to have addressed the issue of

water. He concluded that there is still a significant impact to him that has not been addressed by Cemex, and he opined that the proposed berm of a line of trees would not stop the sand from hitting their property, although distance would help. He stated that Cemex has given false statements to the BCC by stating that they have an agreement with his farm, although they briefly discussed an option concerning moving land around, which makes him question the integrity of the company. He concluded that even if the mine was an allowed use, an allowed use and a good use are sometimes contradictory.

Mr. Jim Purvis, a resident of Kings Ridge in Clermont, expressed extreme opposition to the Cemex sand mine, especially considering the future development of the entire area for the Wellness Way Sector Plan, and he added that the homeowners in his area are also greatly opposed to this project. He commented that the sand mine would trample the rights of the residents who live in the shadow of this proposed mine. He also expressed concern about the money that Cemex contributed to various entities in the county.

Ms. Lisa Hill from Southern Hill Farms adjacent to the mining site pointed out that the proposed sand mine would be next to their property for seven days a week, 24 hours a day for 30 years and noted that the sand mine would significantly impact their land values as well as their blueberries. She mentioned that the property was to be their retirement income, and she asked the board to consider everything discussed that day.

There being no one else who wished to speak, the Chairman closed the public hearing.

Mr. Kurt Ardaman with the Fishback Dominick law firm in Winter Park clarified that he represents six separate landowners who abut the proposed 1,200 acre sand mine and who own a total of about 2,500 acres, including South Lake Crossings and Clonts Groves, and acknowledged that Cemex as an applicant has a right to apply for this conditional use permit, although they needed to comply with the Comprehensive Plan, the LDR's, the Lake County Code, mining standards, and all additional standards. He reiterated that the current FLU designation for the property to the west of the subject site is Urban Low Density, which allows four residential dwelling units per acre with other non-residential uses allowed. He pointed out that the scale of development within rural areas is a key factor, and the scale of development normally associated with a Development of Regional Impact is not consistent with the purposes and intent of the Rural Future Land Use and shall be prohibited. He noted that the staff's prior report found a major impact in the rural area by this mine and noted concern about consistency with Policy I-1.4.2 regarding the scale of development. He added that the use must be served by adequate public facilities, including right of way and roads, but there has been no demonstration of available public right of way. He emphasized that the applicant has not shown by any evidence that it can meet the road and the right of way requirements prior to mining CUP approval or have provided for the roadway standards. He specified that portions of the Schofield Road right of way are only 33 feet rather than the minimum of 66 feet required and added that the property owners abutting the 33 foot right of way are unwilling to sell or convey additional right of way to the applicant for the sand mine. He related that additional significant impacts by this proposed mining permit include the generation of 640 truck trips per day, which equals about one truck per minute in an 11- hour day and a permit allowing them to withdraw 90

million gallons per year out of the aquifer in a high recharge area, although the Lake County Code contains many policies, goals, and objectives which protect aquifer recharge areas. He added that there are at least three Karst features which are close depressions that connect deeper into the aquifer on this property within the proposed mining areas, although the Comprehensive Plan has policies that protect these features, and he opined that Cemex's proposed reclamation will not restore the 1,200 acres to as closely as practical to the contours existing on the site prior to mining as required in Section 6.06.02(D)(2). He opined that the fact that only staff will later determine whether future criteria are met in the operating plan constitutes an unlawful delegation of authority, since they are asking for approval for something not before the Planning and Zoning Board that day. He concluded that the Cemex application and submittals do not show that they comply with the Comprehensive Plan or LDR's and was not compatible with the existing and planned uses. He requested that the board recommend denial of the Cemex application.

Mr. Gonzalez asked how much water Wellness Way would use in that area.

Mr. Ardaman responded that he did not know but noted that it would all be recharged to the aquifer per provisions that would be adopted promoting that recharge, including permeability, retention and storm water plants. He also opined that Lake County's Code and Comprehensive Plan policies are some of the strongest in the state.

Mr. Morris asked the County Attorney whether the board can base their decision on what might happen or if they need to look at what is currently there.

Ms. Erin Hartigan, Assistant County Attorney, clarified that she could not say that they could not consider it, but they have to base their decision on the criteria in the staff report.

Mr. Morris asked Mr. Ross Pluta about the right of way.

Mr. Pluta responded that the right of way is not sufficient right now, which was why they added a provision in the ordinance requiring Cemex to purchase additional right of way in order to receive their final permits.

Mr. Sims rebutted that he strongly disagreed with a lot of the characterizations of the company as well as the assertion that building 16,000 houses would be preferable. He opined that the board could not apply the Sector Plan to their decision, since it was not currently in effect, and assured the board that the delays were not requested for Cemex's advantage. He added that the property rights of Cemex are just as important as those of the other residents and opined that the owner has a right to develop his property the way he sees fit as long as he complies with the law, which he asserted that they do. He commented that the County staff's interpretation of their Code is entitled to great deference. He stated that there was no prime recharge area designation according to their hydrologist, and he pointed out that the company would be providing new jobs. He remarked that a conditional use permit for mining is allowed in the rural designation under the current code.

Mr. Mark Stephens noted that there is no definition of prime recharge that has been promulgated under the Florida Statutes other than a map from the Water Management

District that shows different quantities or rates of recharge, and they are not changing the amount of water that will infiltrate into the ground. He added that they were also not significantly altering surface or ground water quantity or quality, and he pointed out that top soil or overburden will not be used and will be placed back in the excavation upon completion.

Mr. Gonzalez asked how they would address the right of way issue.

Mr. Sims acknowledged that they understand residents are not willing to sell them right of way, but that is not an issue that the board would have to decide that day and will be a requirement for the operating permit. He commented that they want to move forward without getting tangled up with the right of way issue, noting that they can go a different direction if it becomes necessary.

Ms. Tracy Mouncey, a consultant for Cemex and the Executive Director of the Central Florida Sand Mining Association, recapped that they began this process in 2012 and started identifying and meeting with the adjacent neighbors, determined what their issues were, and created some conditions in their applications as a result of that. She related that in doing that they discovered that the Sector Plan was underway and were encouraged to participate in that, and they are currently participating in it financially and with their land. She explained that they submitted their application in January of 2013 and deferred several times because of the Sector Plan and once due to illness of a County Commissioner. She commented that she has been assured by the County that they are an allowable use in the Sector Plan, since there is a designation for natural resource extraction in it. She related that they withdrew their application in May of 2014 in response to community and other concerns in order to review their application for any changes that could be made or other issues that needed to be addressed; however, she indicated that the current application is basically the same as the one the P&Z board recommended for approval last year. She opined that they have worked through the issues stated in the last staff report, and she reiterated that the Code and mining regulations are the most stringent in the state and the model used by other counties. She showed maps illustrating the history and progression of development around an existing sand mine, and she mentioned that they have a vested interest in the area. She added that they have included in the packet items that Cemex has agreed to provide to the adjacent property owners upon approval and beginning of their operation, and she commented that there were misunderstandings rather than the lies that some residents spoke about in regard to proposed agreements and items that the County had requested them to provide. She pointed out that they have agreed to provide a financial assurance from the company in the event that the neighboring property owners are affected by an event by securing a third party who will benchmark and assess the value of their crop annually and make the determination of any damage and the value of that damage for reimbursement by Cemex, which she noted they have guaranteed and put in writing. She reported that the aggregate is a resource of critical state concern for development. She concluded that a competent County and legal staff have already reviewed this application, and they have been found to be in compliance and recommended for approval.

Mr. Gonzalez asked Ms. Mouncey a question, saying your attorney introduced a nice idea; could you direct all traffic to leave the property going eastward? Her response was that they could. Mr. Gonzalez followed up to confirm that there would be no traffic going out highway 27 and that they would make that a permanent condition. She responded by saying that was correct. Mr. Gonzalez asked if they could do that and she said yes.

Mr. Bryan asked if she was agreeing to have Cemex do that? Ms. Mouncey said she would defer to their attorney, because she didn't want to have the power to do that. Mr. Bryan commented that he thought she just did and she said she would let their attorney do that because he was official.

Mr. Sims said Cemex had just received a traffic report confirming that they can make that option work. He said he was authorized to represent that it is an option the company is willing to do.

He also clarified that they have all the right of way needed to go in that direction, since the owners of that right of way have agreed to provide it to them, and the traffic would go towards Orange County north and south and tie into the 429.

Mr. Bryan asked what changes were made in this application that addressed the issues and concerns the County previously had but were not in this one.

Ms. Mouncey clarified that they were concerns from the neighbors rather than the County that the County asked them to look into and responded that those were traffic concerns and were addressed by the option to go east, although the County has indicated that any access to the mine has to be paved; however, they had not done that because of the significant cost.

Mr. Bryan asked if any adjoining landowners were supporting this application.

Ms. Mouncey stated that one landowner to the south within the Sector Plan is supportive of their project, although he is not adjacent to the proposed mine.

Mr. Gonzalez asked if Cemex was leasing the property.

Ms. Mouncey responded that they have spent over \$6 million in lease payments to their landowner as well as permitting costs to permit this project, hence they could not really afford any more delays.

Ms. Stivender opined that the whole transportation section on page 4 of the staff report under "Adequacy of Public Facilities" would have to be changed if they will be going east.

Mr. Isaac responded that that section as well as Page 5 in the Ordinance will be changed and asked the board to include that change in their motion. He indicated that he does not know if the applicant would have enough time to do another traffic study before it goes to the BCC in about three weeks, but they still would have to provide the same the required operating plan.

Ms. Stivender asked Mr. Ardaman if the change in direction would have any impact on their objections of this project.

Mr. Bryan commented that Mr. Ardaman's presentation indicated that they had many other objections as well.

Mr. Ardaman responded that it would be a different analysis, since the primary focus was to the west access, and it is a significant issue that would have to be looked at. He added that his expectation is that Orange County is not aware of that option. He noted, however, that there were multiple other provisions that they do not meet, including the scale issue.

Mr. Gonzalez asked about previous sand mines that were approved near subdivisions.

Mr. Isaac stated that this board and the BCC in December approved a development with about 894 proposed units that was the reclaimed Jahna mining location south of SR 50, which he opined was a good example that property could still be developed after being mined.

Ms. Smith expressed a concern about the traffic going east, since it was not contemplated in their staff report or in the ordinance and was a very big change in this proposal. She elaborated that she believes they need more information about where the traffic would go.

Ms. Stivender stated that she concurred with that.

Mr. Bryan commented that Cemex has made a valiant effort to try to address the concerns that have been raised over the last several years, and he believes moving the traffic pattern the opposite direction is an improvement. However, he related that it was not a compatible use for the area or the blueberry farm, noting that they were historically an agricultural county, and he was not comfortable with this project.

Mr. Morris added that the largest and closest stakeholders were against it.

MOTION by Tim Morris, seconded by Debbie Stivender to DENY MCUP#15/1/1-Cemex-Four Corners Sand Mine MCUP.

FOR: Morris, Bryan, Stivender, Smith

AGAINST: Gonzalez

MOTION CARRIED: 4-1

OTHER BUSINESS

Mr. Morris asked Mr. Greene why they were not provided a traffic analysis for the case that day regarding the sand mine.

Mr. Greene responded that staff has never made it common practice to include the transportation analysis in their report but provides a summary of that after conferring with experts who review that information, since oftentimes the reports are very large at about 100 pages. He offered to discuss this issue under "Other Business" next month.

Ms. Stivender commented that they would probably not need that information for every case, but would for ones that were controversial with enough opposition.

Mr. Morris commented that it would have helped him to have that report in this controversial case.

Mr. Bryan suggested that they are provided the two-to-three page brief summary provided at the beginning of the traffic analysis in those large cases.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:57 a.m.

Respectfully submitted,

Susan Boyajan
Clerk, Board Support

Paul Bryan
Chairman